



**Town of Walpole  
Commonwealth of Massachusetts  
Zoning Board of Appeals**

**FILE**

Matthew Zuker, Chairman  
Craig W. Hiltz, Vice Chair  
Robert Fitzgerald, Clerk  
Mary Jane Coffey, Member  
Susanne Murphy, Member  
John Lee, Associate Member

**DECISION - BOARD OF APPEALS CASE NO. 06-18**

**APPLICANT:  
1327 Main Street Realty, LLC**

**LOCATION OF PROPERTY INVOLVED:**

1327 Main Street, Assessors Map 41, Parcel 152, Business (B) Zone.

**APPLICATION FOR:**

A **Special Permit** pursuant to Section 5-B, Table 5-B.1.4.p.ii of the Zoning By-Laws to allow a drive-up door/window for dry cleaning pickup and drop-off.

On April 4, 2018 a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting on a decision granting a **Special Permit** to the 1327 Main Street Realty, LLC. The hearing was continued to May 2, 2018, at which time the Board closed the public hearing and rendered this decision.

The following members were present and voting:

Matthew Zuker, Chairman  
Craig W. Hiltz, Vice Chairman  
Robert Fitzgerald, Clerk  
Mary Jane Coffey, Member  
Susanne Murphy, Member

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A motion was made by Zuker seconded by Hiltz to amend the application by changing the special permit request from Section 5-B, Table 5-B.1.4.p.ii to Section 5-B, Table 5-B.1.4.q.ii of the Zoning By-Laws.

The vote was **5-0-0 in favor**; therefore the application is amended to change the special permit request to Section 5-B, Table 5-B.1.4.q.ii of the Zoning By-Laws: (Zuker, Hiltz, Fitzgerald, Coffey and Murphy voting in favor; none voting opposed).

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135 School Street, Walpole, MA 02081

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A motion was made by Matthew Zuker, seconded by Robert Fitzgerald, to grant a **Special Permit** under Section 5-B, Table 5-B.1.4.q.ii of the Zoning By-Laws to allow a drive-up window/door for the proposed dry cleaners at 1327 Main Street.

The vote was **5-0-0 in favor**; therefore the application for a **Special Permits** hereby **granted, subject to the conditions enumerated below**: (Zuker, Hiltz, Fitzgerald, Coffey and Murphy voting in favor)

\* \* \* \* \*

#### **CONDITIONS:**

1. Site improvements shall be made as depicted on the plan entitled "1327 Main Street Site Plan of Land in Walpole, MA" prepared by Merrikin Engineering, LLP and with a latest revision date of April 20, 2018.
2. The applicant shall obtain a State Highway Access permit from MassDOT to the extent that such approval is deemed required by MassDOT. It is recognized that MassDOT may require revisions to the design of the driveways and any such changes shall be submitted to the Building Commissioner. The Commissioner shall determine if they materially impact site circulation such that a new filing with the ZBA is warranted.
3. Utility as-built plans shall be submitted to the Engineering Department, including swing ties to pertinent features.
4. The applicant shall satisfy the requirements of E911 relative to site address designations.
5. The applicant shall obtain Site Plan Review approval from the Planning Board. Any substantive changes from that decision shall be reviewed by the Building Commissioner to determine if a new filing with the ZBA is warranted.

#### **REASONS FOR DECISION:**

The site is located on the southwesterly corner of Main Street and Norfolk Street and contains an existing one-story commercial building, which was formerly used as a gas station and automobile service station. All underground tanks have been removed by prior owners and the bulk of the site includes paved parking and driveway.

The applicant proposes to demolish all existing facilities, except for the existing free-standing sign, which will remain and be reused. The applicant proposes to construct a new 5,335 s.f. single-story, multi-tenant commercial building. Reliable Dry Cleaners intends to move from its current location at 1335 Main Street into the proposed building in the southerly tenant space. No tenant has been secured for the northerly tenant space at the time of this application.

The applicant proposes a one-way circulating driveway with an entrance driveway from Norfolk Street and an egress driveway onto Main Street. Thirteen (13) on-site parking spaces are provided. The dry cleaning tenant desires a dedicated drive-thru lane for customers to drop off and pickup items from their vehicle. The site plan depicts a dedicated 10-foot wide drive through aisle adjacent to the building along the main one-way circulating driveway. Vehicles will pull up to a doorway on the side of the building where staff will attend to customers

remaining in their vehicles. Departing vehicles will then egress the site via the Main Street driveway. The applicant notes that the Reliable Dry Cleaners at 1335 Main Street has a very similar drive-through and that there is rarely more than one vehicle in the queue. The proposed exit lane can accommodate three (3) vehicles in the queue if necessary.

It is noted that the applicant is in the process of obtaining Site Plan approval from the Planning Board for the proposed building and site improvements.

The Board finds that the applicant was able to meet the requirements of Section 5-B, Table 5-B.1.4.q.ii of the Zoning By-law for the granting of a drive-in special permit in that:

- i. ...if located in a business district which has an overall length of less than one thousand (1,000) feet, measured along the street on which the use has its principal access.*

The proposed use has its principal access on Norfolk Street and lies within the Business District. The length of the zoning district along Norfolk Street is less than 1,000 feet (it is approximately 300-400 feet long along Norfolk Street). This requirement is therefore met.

#### **FURTHER FINDINGS**

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.2.B of the Zoning Bylaws, which requires that:

- (1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:*

- (a) Does and shall comply with such criteria or standards as shall be set forth in in the section of this Bylaw which refers to the granting of the requested special permit;*

As discussed above, the proposed work complies with the special permit provisions of Section 5-B, Table 5-B.1.4.q.ii of the Zoning By-law.

- (b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;*

The Board finds that the site is currently developed and has historically been used for a gas station and automobile repair station. The proposal to redevelop the site will improve historic traffic patterns to and from the site by reducing the number of curb cuts and by directing traffic in a one-way flow pattern from Norfolk Street to Main Street and, therefore, eliminating ingress to the property from Route 1A. In addition, the proposed dry cleaners use is not expected to generate significant quantities of traffic compared to surrounding uses and the volume of traffic on Main Street. The second tenant space is small and is expected to be a low-intensity use in keeping with the parking facilities available on the site. The Board therefore finds that this requirement is met. To the extent the use of the second tenant space is such that the available parking on site is less than required

by the Zoning By-law, addition relief from the ZBA will be required prior to occupancy of the second tenant space.

***(c) Shall not have a number of residents, employees, customers, or visitors so as to adversely affect the immediate neighborhood;***

The applicant does not propose any residential uses on the site. Given the historic commercial use of the site and the fact that the proposed redevelopment will decrease the number of employees, customers or visitors as compared to those prior uses, and that such employees, customers and visitors are typical for a commercially zoned business property, the Board finds that this requirement is met.

***(d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;***

The Board finds that the proposed structure meets the various dimensional requirements of the Zoning By-law (including building coverage), with the exception of impervious lot coverage, which is pre-existing, nonconforming. The applicant proposes to reduce impervious lot coverage, thereby reducing the nonconformity. There are no buffer zone requirements per Section 5-G of the By-Laws associated with this use. The Board therefore finds that this requirement is met.

***(e) Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;***

The Board finds that multi-tenant commercial buildings of this nature in a business area are not dangerous to the immediate neighborhood. The proposed use includes a dry cleaners and a small second tenant space. Such uses do not represent a significant danger related to fire, explosion, emission of wastes or other causes. As such, the Board finds that this criterion is met.

***(f) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;***

The Board finds that the proposed commercial uses are not known to be typically associated with noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard which would adversely affect the immediate neighborhood. The proposed dry cleaner is a non-intensive use. As such, the Board finds that this criterion is fulfilled.

***(g) Shall not adversely effect the character of the immediate neighborhood; and***

The Board finds that the property is currently in an undesirable state, with an unsightly vacant building surrounded by a large, deteriorated paved parking field. The proposed redevelopment will position the new building forward on the property in keeping with the intent of the Zoning By-law and will represent an improvement to the property. The Board therefore finds that this criterion is met

and that the proposed redevelopment will improve the character of the immediate neighborhood.

***(h) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.***

The Board finds that the proposed redevelopment is appropriate for a commercial property in a Business zone. As such, the Board finds that this criterion is met.

\* \* \* \* \*

**Consistency: This decision is consistent with purpose and intent of the Zoning By-laws.**

**The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.**

\* \* \* \* \*

Said Special Permits(s) is(are) granted pursuant to Massachusetts General Laws c. 40A, s.9 which provides in pertinent part as follows:

*"...special permits granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."*

Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

*"A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided*

*under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."*

**MASSACHUSETTS GENERAL LAWS c. 40A, s. 15 PROVIDES THAT APPEALS FROM A DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO SECTION 17 OF c 40A AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.**

WALPOLE ZONING BOARD OF APPEALS

  
Robert Fitzgerald, Clerk

cc: Town Clerk  
Board of Selectmen  
Building Inspector  
Engineering  
Planning Board  
Conservation Commission

This decision was made on May 2, 2018 and filed with the Town Clerk on May 08, 2018.